

IN THE SENATE OF THE UNITED STATES.

MARCH 17, 1858.—Ordered to be printed.

Mr. EVANS made the following

REPORT.

[To accompany Bill S. 205.]

*The Committee on Revolutionary Claims, to whom was referred the memorial of Susannah Hayne Pinckney, sole heir of Captain Richard Shubrick, having had the same under consideration, beg leave to submit the following report:*

Richard Shubrick was a captain in the 2d regiment of the South Carolina line of the continental army of the revolution. He died in Charleston, of fever, whilst in the service, on the 8th November, 1777, leaving a widow and two minor children. The widow and one of the children have been dead many years, and the petitioner is the sole survivor and heir of the said Captain Shubrick.

The prayer of the petition is, that she may be paid the seven years' half-pay which was provided for in the resolution of Congress of 24th of August, 1780, to the widow and minor children of officers of the army who had died, or should thereafter die, in the service.

To a correct understanding of this case, it will be necessary to enter somewhat into detail as to the several acts or resolves on which the merit of the petition depends, and into a detail of the history of the case, as they appear in the proceedings of Congress.

On the 15th of May, 1778, on the report of a committee, Congress "*Resolved unanimously*, That all military officers commissioned by Congress who now are, or may hereafter be, in the service of the United States, and shall continue therein during the war, and not holding any office of profit under these States, or any of them, shall, after the conclusion of the war, be entitled to receive annually, for the term of seven years, if they live so long, one-half of the present pay of such officer." On the 24th of August, 1780, Congress took into consideration the report of the committee on the memorial of the general officers, and, thereupon, it was "*Resolved*, That the resolution of the 15th of May, 1778, granting half-pay for seven years to the officers of the army who should continue in service to the end of the war, be extended to the widows of *those* officers who *have* died, or shall hereafter die, in the service, to commence from the time of such officer's death,

and to continue for seven years; or, if there be no widow, or in case of her death or intermarriage, the said half-pay be given to the orphan children of the officer dying as aforesaid, if he shall leave any, and that it be recommended to the legislatures of the respective States to which such officers belong, to make provision for paying the same on account of the United States."

On the 4th of May, 1785, on the report of a committee to whom had been referred a letter of the widow of General Wooster, who was killed in battle prior to the 15th of May, 1778, it was "*Resolved*, That it be recommended to the State of Connecticut to settle with and pay the widow of the late Brigadier General David Wooster the seven years' half-pay of a brigadier general, agreeably to the resolution of February 28, 1785, the amount whereof they are authorized to charge to the United States." It also appears from the journals of Congress, vol. 2, p. 823, that Congress ordered as follows: That the eldest son of General Warren, and the youngest son of General Mercer, be educated from this time (April 8, 1777,) at the public expense; and, at a subsequent period, Congress made further provision for the family of General Warren. Both these officers were killed before the 15th of May, 1778. This is all the legislation which applies to this case. The history of the action of Congress on this particular case is as follows: At the 1st session of the 2d Congress, (1791,) Thomas Shubrick, on the part and behalf of Mary and Susannah Shubrick, the minor children of the said Richard Shubrick, presented a petition praying that they might be paid the seven years' half-pay under the resolution of August 24, 1780. Upon this application, the Secretary of War, General Knox, made a report recommending its payment, and submitted, along with it, a list of upwards of forty cases in which the States had paid, agreeably to the recommendation of Congress contained in the said resolution of the 24th August, 1780.

There does not appear to have been any final action on this petition, and the application was not renewed until the 23d Congress, since which time the claim has been several times before both Houses of Congress, and generally reported on favorably. In 1842 a bill reported by the Committee on Revolutionary Claims, in the House of Representatives, being under consideration, it was referred to the Committee on the Judiciary to report "whether, in a legal point of view, if there were no statutes of limitations in the way, the widows and orphans of officers of the continental line of the revolutionary army who were killed or died in the service prior to the 15th May, 1778, (the day the act granting seven years' half-pay to officers who should serve to the end of the war was passed,) are or are not entitled to the seven years' half-pay granted by the act of 24th August, 1780, to the widows and orphans of all officers who had died, or should die, in the service." In pursuance of this reference, a very full report was made, maintaining the proposition that those who died, or were killed in the service, anterior to the resolution of the 15th May, 1778, were not entitled. Indeed, if the resolution of 24th August be construed by itself, there is no reasonable doubt as to its construction. It extends the benefit of the resolution of 15th May, 1778, to the widows or orphans of *those* officers who had died, and should thereafter die, in

the service. What widows and orphans are here meant? It is clear the words "the widows and orphans of *those* officers" mean those mentioned in the preceding part of the sentence, viz: the officers who, at the date of the resolution, were, or might thereafter be, in the service, and should continue to the end of the war. The object of the resolution of August 24, 1780, was, in case of the death of an officer who, if he had continued in the service to the end of the war, would have been entitled to the seven years' half-pay, to substitute his widow or children in his place. It is not known to your committee that Congress has ever sanctioned any other construction of the resolve of August 24, 1780, except in the case of the widow of General Wooster, but it is very certain that many of the States, acting on the authority of that case, were influenced by a very liberal construction of the words "have died," have paid by far the greater number of the cases without reference to the time of death. So far as is known to your committee, there is only one other case like this unprovided for, and, under these circumstances, your committee have come to the conclusion to recommend the payment of this claim, and report a bill for that purpose.

